

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF COLORADO
The Honorable A. Bruce Campbell**

In re:)	
)	
BRITNEY J. KING,)	Case No. 10-15870 ABC
)	Chapter 7
Debtor.)	
)	
BRITNEY J. KING,)	
Plaintiff,)	
)	
v.)	Adversary No. 10-1432 ABC
)	
1062 LLP, a Colorado limited liability partnership)	
3135/3145 LLP, a Colorado limited liability)	
partnership, 3600 LLP, a Colorado limited liability)	
partnership, and BAS Collections, Inc., a Colorado)	
corporation,)	
Defendants.)	

**ORDER DENYING MOTION FOR DEFAULT JUDGMENT
AND DISMISSING SECOND AND THIRD CLAIMS FOR RELIEF**

This matter is before the Court on the Motion for Default Judgment and Memorandum of Law in Support Thereof ("Motion") filed by Plaintiff/Debtor Britney J. King ("Debtor") on July 21, 2010.

Upon review of the Motion, the Affidavit filed in support thereof, the Certificate of Service, and the Complaint, it appears that service on the Defendants was not made in compliance with Fed. R. Bankr. P. 7004(b)(3), which requires service to a named officer or agent of a corporation or other unincorporated association. *See, In re Schoon*, 153 B.R. 48 (Bankr. N.D. Cal. 1993); *Addison v. Gibson Equipment Co., Inc. (In re Pittman Mechanical Contractors, Inc.)*, 180 B.R. 453 (Bankr. E.D. Va. 1995); *In re Golden Books Family Entertainment, Inc.*, 269 B.R. 300, 305-06 (Bankr. Del. 2001); *In re Saucier*, 366 B.R. 780 (Bankr. N.D. Ohio 2007). Further, the Certificate of Service verifies mailing only of "Exhibits A-D" and does not reflect any service of the Complaint and Summons.

Additionally, Debtor's second and third claims for relief, for violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.*, and the Colorado Consumer Protection Act, C.R.S. § 6-1-101, *et seq.*, are based on post-petition actions taken by the Defendants. These claims, arising after Debtor's bankruptcy case was filed, are not property of Debtor's Chapter 7 estate, and the resolution of the claims cannot "conceivably have any effect on the estate being administered in bankruptcy." *Gardner v. United States (In re Gardner)*, 913 F.2d 1515, 1518 (10th Cir. 1990). Therefore, these claims are not encompassed in this Court's limited subject matter jurisdiction under 28 U.S.C. § 1334, and must be dismissed. *See, In re Harlan*, 402 B.R. 703 (Bankr. W.D. Va. 2009)(factual nexus alone is not sufficient to confer "related to" jurisdiction of FDCPA claims); *In re Wynne*, 422 B.R. 763 (Bankr. M.D. Fla. 2010)(post-petition FDCPA claims and claims for violation of Florida consumer protection statutes are not "related to" bankruptcy case); *In re Vogt*, 257 B.R. 65 (Bankr. Colo. 2000). It is accordingly,

ORDERED that the Motion is denied; and it is

FURTHER ORDERED that the Second and Third Claims for Relief in Debtor's Complaint are dismissed; and it is

FURTHER ORDERED that Debtor shall have **fourteen (14) days** from the date of this Order within which to request the issuance of an alias summons so that proper service may be made on all Defendants, and shall have **twenty-eight (28) days** from the date of this Order within which to file a Certificate of Service showing proper service of the Summons and Complaint on Defendants, failing which, this adversary proceeding may be dismissed.

DATED: September 24, 2010 BY THE COURT:



A. Bruce Campbell
United States Bankruptcy Judge